



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

James Robert Adair, Jr. et al.

Serial No. 09/954,443

Filing Date: September 17, 2001

For: Heat Seal Die and System and Method
For Portion Control Sized Packaging

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) Examiner: Thanh K. Truong
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) Art Unit: 3721
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DECLARATION UNDER 37 C.F.R. § 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RECEIVED
OCT 14 2003
TECHNOLOGY CENTER R3700

I, Richard Vincent Dougherty, hereby declare that:

1. I am a co-inventor of the above-identified patent application (the "Patent Application"). I am currently employed by Printpack, Inc., a leading provider of printed flexible technology and products, as a Marketing Manager in the (developing of/sales and marketing of) printed flexible packaging and manufacturing systems. I have 23 years experience working in the field of printed flexible packaging. I have a degree in Fine Arts from Miami University in Oxford, Ohio.
2. I am familiar with the above-referenced patent application (hereinafter the Application) and the invention (hereinafter the Invention) disclosed therein. My work in connection with this Invention began as an effort to solve the problem of serum leakers in portion control packages formed by heat sealing in a form/fill/seal machine. Portion control sized packages are relatively small portions of material in flexible, single serve packages designed to control the portion of the material consumed by the end user. Condiments such as ketchup and mustard served in flexible,

single serve packages in fast food restaurants are examples of common portion control size packaged liquid-containing materials. Serum leakers are portion control packages that leak liquid through the heat seal of the packages.

3. The owner of the Application, Printpack, currently has licensed the technology to two producers of portion control-packaged condiments: C.F. Sauer, Mauldin, SC (CFS) and Golden States Foods, Conyers, GA (GSF). Both of these companies produce portion control-packaged condiments for a variety of fast food restaurants.


4. The licenses referenced above are contingent on the sale of specified amounts of packaging material sales by Printpack to the licensees over the next several years. Under the licenses, Printpack replaced the existing heat seal dies in the licensees' form/fill/seal machines for production of portion control sized packaging and supplies 60% of the licensees packaging material volume for portion control packaging at the same price provided by competitors. In these cases, Printpack and the licensees cooperated in experiments that demonstrated the effectiveness of the technology. The licensing arrangements were made due to direct contact by Printpack representatives with the licensees. Printpack's advertising of the claimed invention was limited to this direct contact. Therefore, the commercial success of the claimed invention is not due to pricing or advertising, but rather, the technology itself.

5. I declare that all statements made herein of my own knowledge and belief are true and that all statements made on information and belief are believed to be true, and further that the statements are made with the knowledge that willful false statements are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such

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willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: September 17, 2003


Richard Vincent Dougherty